



November 16, 1999

Ms. Kristi DeCluitt
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR99-3266

Dear Ms. DeCluitt:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129450.

The City of College Station (the "city") received a request for numerous documents relating to a city landfill project.¹ You originally claimed that the requested information is excepted from disclosure under sections 552.103 and 552.107 of the Government Code. However, in subsequent correspondence submitted to our office, you indicate that the city no longer reasonably anticipates litigation, and therefore, you have withdrawn your section 552.103 claim. Accordingly, we have considered only the exception you claim under section 552.107 of the Government Code and have reviewed the submitted information.

You contend that information in Exhibit B-4 is excepted from disclosure under section 552.107. Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. Open Records Decision No. 574 at 5 (1990). Section 552.107(1) does not except purely factual information from disclosure, nor does it protect information gathered by an attorney as a fact-finder. Open Records Decision Nos. 574 (1990), 559 (1990), 462 (1987). Section 552.107(1) does not except from disclosure factual recounting of events or the documentation of calls made, meetings attended, and memos sent. Open Records Decision No. 574 at 5 (1990).

The document you have marked as Exhibit B-4 contains drafts of an agreement between the Brazos Valley Solid Waste Management Agency (hereinafter "the BVSWMA") and the

¹You refer to this request as PWKMM Request No. 23.

county. The drafts were prepared by an attorney working for the BVSWMMA, which is an entity owned by the cities of College Station and Bryan. We believe that the marked documents reflect the advice of an attorney representing the governmental body. Therefore, you may withhold the marked information from disclosure pursuant to Government Code section 552.107. However, the remaining documents in Exhibit B-4 must be released. The do not reflect confidential communications or an attorney's advice or opinion.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink that reads "Carla Gay Dickson". The signature is written in a cursive, flowing style.

Carla Gay Dickson
Assistant Attorney General
Open Records Division

CGD/nc

Ref: ID# 129450

Encl. Marked documents

cc: Mr. C.J. Kling
Payne, Watson, Kling, Miller & Malechek, P.C.
P.O. Box 6900
Bryan, Texas 77805-6900
(w/o enclosures)